

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

)	
)	
Plaintiff(s),)	
)	
v.)	CAUSE NO. _____
)	
)	
)	
Defendant(s).)	

SCHEDULING ORDER AND MEMORANDUM OF STATUS CONFERENCE

1. In accordance with Fed. R. Civ. P. 26(f), a meeting was held on _____, plaintiff(s) was represented by _____ and defendant(s) was represented by _____.

2. Pre-Discovery Disclosures. The parties [have exchanged] will exchange by _____ the information required by Fed. R. Civ. P. 26(a)(1).

3. Discovery Plan. The parties jointly propose to the court the following discovery plan:

The last date for the completion of all discovery is _____.

Maximum of 25 interrogatories by each party to any other party.

Maximum of 30 requests for admission by each party to any other party.

Maximum of 10 depositions.

Each deposition limited to maximum of 7 hours unless extended by agreement of parties.

The filing of reports from retained experts under Rule 26(a)(2) due:

from plaintiff(s) by _____.

from defendant(s) by _____.

Any evidentiary objections to another party's expert witness, whether directed to the witness's qualifications or to the foundation for the anticipated testimony, shall be filed

_____. Failure to file such objections is waiver of any objection to opinion testimony outlined in the statement filed by the witness's proponent.

Supplementations under Rule 26(e) due every **six weeks** until trial.

4. Other Items.

The last date for the parties to amend the pleadings without leave of court is _____ . Thereafter, any amendments to the pleadings must be by motion and leave of court.

The date for the filing of all potentially dispositive motions, **fully briefed**, is _____ .

The timing of filing pretrial disclosures under Fed. R. Civ. P. 26 (a)(3) shall be governed by separate order.

The parties have agreed upon _____ as mediator. Thirty (30) days before the final pretrial conference counsel will provide a written status report to the ADR administrator regarding the status of mediation.

[Additionally, consistent with Local Rule 16.6, the parties shall report to the court which, if any, of the Alternative Dispute Resolution processes of Local Rule 16.6 (b) they wish to employ and if mediation is selected, the parties shall indicate the name of the mediator they have agreed upon. If the parties can not agree upon a mediator, or if none is named, the court will appoint a mediator. The parties shall submit their joint report no later than _____.]

[The case should be ready for jury trial by _____ and at this time is expected to take approximately _____ days.]

This case is now set for a telephonic scheduling conference before the Honorable Christopher A. Nuechterlein to select a trial date on _____ (E.S.T.)

The court will call all counsel listed on the docket sheet unless it is notified that specified

attorneys need not be contacted. If, at the time of the scheduled conference, you will not be at the telephone number identified on the docket sheet, notify court staff at (574) 246-8100 of the number at which you can be reached.

Counsel are aware that the Court has various audio/visual and evidence presentation equipment available for use at trial at no cost to the Bar. Counsel know that this includes an evidence presentation system, which consists of a document camera, digital projector, and screen. Counsel know the projector may be used to display images which originate from a variety of sources, including television, VCR, and personal computer. The document camera may be used to display documents, photographs, charts, transparencies, and small objects. Counsel acknowledge they can contact one of the Court's courtroom deputy clerks for information or training.

SO ORDERED.

Dated _____.

s/ Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge

cc: Chief Judge Miller
Counsel of record

EXPLANATION OF SCHEDULING ORDER:

This explanation attempts to resolve ambiguities that have arisen in the past concerning the meaning of deadlines and other issues. The scheduling order must be enforced to allow the orderly handling of all the cases on the court's docket. Accordingly, pursuant to Fed. R. Civ. P. 16(b) and § 2.03(g) of this court's Civil Justice Expense and Delay Reduction Plan, the deadlines will be modified only for good cause shown. This explanation of the scheduling order is meant to assist you in preparing the case within those deadlines, without running afoul of any misinterpretation.

A. Discovery.

1. Time limit for discovery requests. All discovery other than depositions must be initiated at least forty-five days before the cut-off date. A deposition commenced at least five days before the cut-off date may continue beyond the cut-off date. Notices of deposition shall be

served on opposing counsel at least fifteen days before the deposition date.

2. Extensions of Time. Pursuant to a standing order of the court, parties may stipulate to a single extension of time, not to exceed thirty days, to respond to a discovery request. You may inform the court of such a stipulation by letter; no motion or form of order is required.

3. Discovery disputes. Fed. R. Civ. P. 1 requires that the rules of procedure be construed to secure the just, speedy, and inexpensive determination of every action. Accordingly, discovery should be consistent with the needs and importance of the case, and be so conducted as to minimize the burden of discovery and concentrate on issues genuinely in dispute. You should be able to resolve substantially all discovery disputes without the court's intervention or assistance. You should note District Rule 37.1 concerning the obligation of counsel to confer before enlisting the court's assistance under Fed. R. Civ. P. 26 or 37. The judge may be available for telephonic resolution of discovery disputes without prior written motion, but anticipates that such a need will arise infrequently. To allow the court's compliance with Fed. R. Civ. P. 26(c) and 37(a)(4) in the event a discovery dispute reaches the court, you should be prepared to state, in terms of hours expended and hourly rate, the fees and expenses incurred with respect to the discovery issue.

B. Dispositive motions.

1. Deadline for motions. All dispositive motions must be filed by the deadline set forth above, with summary judgment motions to be filed, **fully briefed**, by the movant by that date.

2. Procedure. The following procedure with respect to **summary judgment motion** practice shall govern in this case:

a. The parties **shall not file** summary judgment motions, responses, memoranda, affidavits, or exhibits until the parties have completed their briefing of the motion. Upon completion of the briefing, all papers pertinent to the motion shall be filed at one time, by the movant, and shall be docketed by the clerk as summary judgment motion and summary judgment record.

b. The parties shall accomplish this as follows:

(1) The moving party shall **serve** the motion, brief, and supporting documents on all other counsel, and shall file with the court a simple notice of having done so, reflecting the date on which the materials were served.

(2) The party or parties opposing the motion shall **serve** their response to the motion and supporting documents on other counsel, and shall file with the court a simple notice of having done so, reflecting the date on which the materials were served.

(3) The moving party shall **file** the foregoing documents, together with any reply brief also served on opposing counsel, by the **deadline** established in the court's scheduling order for the filing of dispositive motions.

c. Because the deadline for filing dispositive motions is established in conjunction with the trial date, the court **will not modify or extend** the deadline without good cause.

d. The district rules establish the following general briefing schedule for summary judgment motions: the response brief is due 30 days after service of the motion and supporting brief; the reply brief is due 15 days after service of the response. The court's concern is the deadline for filing the fully briefed motion, so counsel are **free to agree** on any other briefing schedule and pre-filing deadlines. Counsel are **not free to agree on an extension of the date by which the fully briefed motion is to be filed**. The court urges counsel to confer about the briefing schedule with an eye toward the issues to be raised in, and in response to, the motion.

e. Apart from the provision that summary judgment motions are not to be filed until briefing is complete and the provision that counsel may modify the district rules' general briefing schedule by agreement, this order does not modify any other provision of the district rules concerning summary judgment practice, including the requirements of "Statement of Material Facts" and "Statement of General Issues" set forth in District Rule 56.1, the page limitations on

briefs set forth in District Rule 7.1(d), and the requirement of submitting certain supporting authorities set forth in District Rule 7.1(e).

3. Length of briefs. District Rule 7.1 limits briefs to twenty-five pages (excluding exhibits) without prior leave of court. Relief from this rule will not be granted unless the request for relief identifies the approximate anticipated length of the brief proposed to be filed.

4. Hearing. If a hearing is scheduled on the motion, you should expect the judge to be familiar with the case and the briefs. The judge usually begins a hearing on a dispositive motion by informing the parties how he would rule on the motion in the absence of oral argument, and why. The judge then invites argument directed to the proposed ruling.

C. Other matters.

1. Modification of order; continuances. Continuances or extensions of time with respect to the deadlines for amendments, discovery, and dispositive motions will be granted only upon a convincing showing of good cause, upon a request made before the pertinent deadline has expired. See Fed. R. Civ. P. 16(b); Civil Justice Plan § 2.03(g). Lack of diligence or failure to comply with the scheduling order cannot be considered good cause. Absent disabling circumstances, the deadline for completion of discovery will not be extended unless there has been active discovery. Stipulations for extensions will be considered, of course, but, without more, do not amount to good cause for an extension of a deadline. A motion to extend the discovery deadline should set forth (a) a statement of the discovery completed, (b) a specific description of the discovery that remains to be done, (c) a statement of the reason(s) discovery was not completed within the time allowed, and (d) a proposed schedule for the completion of the remaining discovery.

2. Briefing schedules. The briefing schedule set forth in District Rule 7.1 shall apply to all motions, other than motions for enlargement of time and summary judgment motions. In other words, the response to any motion (other than for enlargement of time or for summary judgment) shall be due not more than fifteen days after service of the motion, and the movant's reply shall be due not later than seven days after service of the response. If you do not intend to file a response or reply, please inform the courtroom deputy clerk, Sharon Macon (574-246-8104), so that no unnecessary delay arises from awaiting a brief that will not be filed. The briefing schedule for summary judgment motions is set forth in subsection C above. The court will presume that motions for enlargement of time (other than for extension of the deadlines set forth in this order) will not be opposed; if you intend to oppose a request for enlargement of time, notify the courtroom deputy clerk immediately.

3. Settlement. The court encourages counsel to pursue the possibility of settlement vigorously during the entire pendency of this action, through and including the end of trial. Private negotiations are the most cost-effective approach to settlement. Civil Justice Expense and Delay Reduction Plan, § 4.01.

4. Further conferences or hearings. Hearings on motions will be scheduled as needed. If lengthy discovery has been allowed, interim status conferences may be scheduled to monitor the case's progress and address any issues that may have arisen.